

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

<b>IN THE MATTER OF:</b>	)	AMENDED
	)	COMPLAINT NO. R9-2002-0203
<b>TOSCO MARKETING CO.</b>	)	FOR
<b>76 SERVICE STATION</b>	)	ADMINISTRATIVE CIVIL LIABILITY
<b>NO. 5965 DEWATERING</b>	)	WITH
	)	MANDATORY MINIMUM PENALTY
<b>NONCOMPLIANCE WITH</b>	)	
<b><u>ORDER NO. 2001-96</u></b>	)	September 18, 2002

**TOSCO MARKETING COMPANY IS HEREBY GIVEN NOTICE THAT:**

1. TOSCO Marketing Company is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (SDRWQCB) may impose civil liability pursuant to the Porter-Cologne Water Quality Control Act, California Water Code (CWC), Section 13385 et seq.
2. A public hearing on this matter is tentatively scheduled before the SDRWQCB on November 13, 2002 at the San Diego Regional Water Quality Control Board, Board Room, 9174 Sky Park Court, Suite 100, San Diego. The meeting will begin at 9:00 a.m. At the hearing, TOSCO Marketing Company will have the opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the SDRWQCB. Additional notice of this public hearing and the hearing procedures will be provided to TOSCO Marketing Company prior to the hearing date with the agenda for the SDRWQCB meeting on that date.
3. At the hearing, the SDRWQCB will determine the validity of the allegations contained herein and, if the allegations are found to be true, will consider whether to assess civil liability in the amount proposed by this Complaint, or in some other amount.

**ALLEGATIONS**

During the period from January 2002 through June 2002 TOSCO Marketing Company 76 Service Station No. 5965 Dewatering violated Order No. 2001-96, *NPDES No. CAG919002, General Waste Discharge Requirements For Groundwater Extraction And Similar Waste Discharges From Construction, Remediation, And Permanent Groundwater Extraction Projects To Surface Waters Within The San Diego Region Except For San Diego Bay*. These violations are due to effluent limit exceedances of Total Residual Chlorine and Chronic Toxicity (fathead minnow survival) as reported in the Discharger Self-Monitoring Reports during this time period.

The following facts are the basis for the alleged violations in this matter:

1. TOSCO Marketing Company 76 Service Station No. 5965 Dewatering is approved to discharge the effluent from its dewatering project to Lake San Marcos under the provisions of Order No. 2001-96. Table 1 (attached) summarizes the discharge limitations set forth in Order No. 2001-96 and the violations by TOSCO Marketing Company during the period in question.
2. Water Code Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for the first serious violation and each additional serious violation in any period of six consecutive months, or, in lieu of the penalty, require the discharger to spend an equal amount for a supplemental environmental project, or to develop a pollution prevention plan.

Five serious violations are assessed \$3,000 per violation, giving a mandatory minimum penalty of \$15,000 for these violations.

3. Water Code Section 13385(i) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any six-month period:
  - Exceeds a waste discharge requirement effluent limitation.
  - Fails to file a report pursuant to Water Code Section 13260.
  - Files an incomplete report pursuant to Water Code Section 13260.
  - Exceeds a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

The chronic violation of April 15, 2002 does not incur a \$3,000 penalty, because there are not three or more violations in the preceding 180-day period.

4. Attachment No. 1 is a summary of the effluent limitations set forth in Order No. 2001-96 and the violations by TOSCO Marketing Company during the January – June 2002 reporting period. As shown in the Table, there are five serious violations of the effluent limitation for Total Chlorine Residual and one chronic violation of the effluent limitation for Chronic Toxicity.
5. Attachment No. 2 is a copy of the January – June 2002 quarterly monitoring report.
6. Five serious violations are assessed, giving a total of \$15,000 in mandatory minimum penalties for the serious violations.


September 18, 2002

**PROPOSED CIVIL LIABILITY**

7. Pursuant to Section 13385 (h and i) of the California Water Code, mandatory minimum penalties should be imposed on TOSCO Marketing Company by the SDRWQCB in the amount of \$15,000, the amount of the mandatory minimum penalty, for the above violations.

Dated this 18<sup>th</sup> day of September 2002

By: 

 JOHN H. ROBERTUS  
Executive Officer

**Table 1. Violation Summary for 76 Service Station No. 5965, January 2002 through June 2002.**

<u>Date of Violation</u>	<u>Violation</u>	<u>Permitted Limit</u>	<u>Reported Value</u>	<u>Pollutant Category</u>	<u>Ratio, Reported: Permitted</u>	<u>Serious/Chronic</u>	<u>Water Code Section 13385</u>	<u>Penalty</u>
3/11/02	Total Residual Chlorine daily max.	8 µg/L	500 µg/L	2	62.5	Serious	(h)(1)	\$3,000
3/11/02	Total Residual Chlorine instantaneous max.	10 µg/L	500 µg/L	2	50	Serious	(h)(1)	\$3,000
4/15/02	Chronic Toxicity daily max.	1 TUc	4 TUc	N/A	N/A	Chronic	(i)(1)	\$0
4/15/02	Total Residual Chlorine Average Monthly	2 µg/L	900 µg/L	2	450	Serious	(h)(1)	\$3,000
4/15/02	Total Residual Chlorine daily max.	8 µg/L	900 µg/L	2	112.5	Serious	(h)(1)	\$3,000
4/15/02	Total Residual Chlorine instantaneous max.	10 µg/L	900 µg/L	2	90	Serious	(h)(1)	\$3,000

**Total Penalty: \$15,000**

Ratio, Reported:Permitted is used for determining whether a violation is serious or chronic based on the category of the pollutant.

14-920

AM 4/22



environ strategy consultants, inc.

30 Hughes, Suite 205  
Irvine, California 92618  
tel 949.581.3222  
fax 949.581.3207

April 10, 2002

Mr. John Robertus, Executive Officer  
Regional Water Quality Control Board  
San Diego Region  
9771 Clairmont Mesa Boulevard, Suite A  
San Diego, California 92124

John P. 4-23-02  
CK 4-23-02  
Project No. 208-B

*for review for compliance*

March 2002

Monthly NPDES Discharge Monitoring Report

Order No. 96-41, NPDES Permit No. CAG919002

Tosco/76 Service Station No. 5965  
1110 San Marino Drive  
San Marcos, California

Dear Mr. Robertus:

Environ Strategy Consultants, Inc., on behalf of Tosco Corporation, is pleased to submit this monthly NPDES discharge monitoring report for Tosco/76 Service Station No. 5965, located at 1110 San Marino Drive in San Marcos, California.

A ground water treatment system is operated at the site to remediate fuel hydrocarbon-impacted ground water collected from de-watering trenches. Ground water is treated with three 1,000-gallon granular activated carbon (GAC) filters prior to discharge. Treatment system troubleshooting and start-up activities were preformed during October and November 2001. Discharge of treated ground water began on December 3, 2001.

Routine system operation and bi-weekly effluent monitoring was performed as required by the NPDES Permit. During the month of March 2002 the ground water treatment system treated and discharged approximately 8,123 gallons of hydrocarbon impacted ground water or 386 gallons per day.

Laboratory analytical results of effluent samples indicate that all the constituents were below the discharge limitations set forth in NPDES Permit Number CAG919002. The analytical results are summarized in Table 1 and the laboratory analytical reports with chain of custodies are included as Appendix A.

APR 16 2002  
SAN DIEGO REGIONAL  
WATER QUALITY  
CONTROL BOARD

March 2002

Monthly NPDES Discharge Monitoring Report

Order No. 96-41, NPDES Permit No. CAG919002

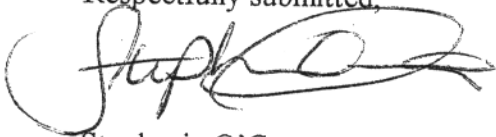
Tosco/76 Service Station No. 5965

Page 2

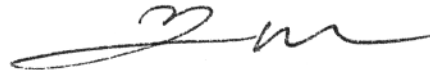
"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

If you have any questions or require additional information regarding this report, please do not hesitate to call us at (949) 581-3222.

Respectfully submitted,



Stephanie O'Connor  
Project Coordinator



Ying Bian, P.E.  
Senior Engineer



Attachments: Table 1: Discharge Monitoring Analytical Results  
Laboratory Analytical Reports

cc: Steve Defibaugh - Block Environmental  
Dan Fischman - Phillips 66 Company

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Table 1  
Dewatering/P&T Remediation System  
Discharge Monitoring Analytical Data  
76 Station No. 5965  
NPDES Permit No. CAG919002  
Page 1 of 1

Date	Sample ID	Total flow gallons	Average Flowrate gpd	TPH <sub>g</sub> (µg/L)	Benzene (µg/L)	Toluene (µg/L)	Ethyl-benzene (µg/L)	Xylenes (µg/L)	MTBE (µg/L)	TBA (mg/L)	pH (pH units)	Settable Solids (mg/L)	Suspended Solids (ml/l/hr)	Total Residual Chlorine (mg/L)	Phosphorus (mg/L)	Total Nitrogen (mg/L)
3/11/2002	Influent	39,830	280	1,100	70	<1.0	1.2	<1.0	73	67						
	Effluent A			<50	<0.50	<1.0	<1.0	<1.0	<1.0	<12						
	Effluent B			<50	<0.50	<1.0	<1.0	<1.0	<1.0	<12						
	Effluent C			<50	<0.50	<1.0	<1.0	<1.0	<1.0	<12	7.79			0.50		
3/18/2002	Influent	43,980	593	900	70	1.6	1.8	2.9	93	69						
	Effluent A			<50	<0.50	<0.50	<0.50	<1.0	<1.0	<12						
	Effluent B			<50	<0.50	<0.50	<0.50	<1.0	<1.0	<12						
	Effluent C			<50	<0.50	<0.50	<0.50	<1.0	<1.0	<12						
Discharge Limits		--	3,000	100	1.0	5.0	5.0	5.0	--	--	6.5-8.5	0.1	30		2.0	

Notes:

- Effluent A sample collected after first carbon vessel
- Effluent B sample collected after second carbon vessel.
- Effluent C sample collected after third carbon vessel.
- TPH<sub>g</sub> - total petroleum hydrocarbons as gasoline
- MTBE - methyl tertiary butyl ether

47-120  
envirom strategy consultants, inc.

9/12/54  
John P. 364-02



*pls review for compliance*

30 Hughes, Suite 205

Irvine, California 92618

tel 949.581.3222

CK 6-5-02 fax 949.581.3207

May 28, 2002

Mr. John Robertus, Executive Officer  
Regional Water Quality Control Board  
San Diego Region  
9771 Clairmont Mesa Boulevard, Suite A  
San Diego, California 92124

Project No. 208-B

April 2002

**Monthly NPDES Discharge Monitoring Report**  
**Order No. 96-41, NPDES Permit No. CAG919002**

Tosco/76 Service Station No. 5965

1110 San Marino Drive

San Marcos, California

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SAN DIEGO REGIONAL  
WATER QUALITY  
CONTROL BOARD

Dear Mr. Robertus:

Envirom Strategy Consultants, Inc., on behalf of Tosco Corporation, is pleased to submit this monthly NPDES discharge monitoring report for Tosco/76 Service Station No. 5965, located at 1110 San Marino Drive in San Marcos, California.

A ground water treatment system is operated at the site to remediate fuel hydrocarbon-impacted ground water collected from de-watering trenches. Ground water is treated with three 1,000-gallon granular activated carbon (GAC) filters prior to discharge. Treatment system troubleshooting and start-up activities were preformed during October and November 2001. Discharge of treated ground water began on December 3, 2001.

Routine system operation and bi-weekly effluent monitoring was performed as required by the NPDES Permit. During the month of April 2002 the ground water treatment system treated and discharged approximately 13,725 gallons of hydrocarbon impacted ground water or 392 gallons per day.

Laboratory report indicates that effluent sample collected on April 15, 2002 contained a residual chlorine concentration of 0.9 mg/l, exceeding the discharge limit of 0.041 mg/l. We are currently working with our analytical laboratory, Del Mar Analytical, in an effort to determine possible reasons of the chlorine concentrations detected in the effluent samples. We believe that wrong type of sample containers with preservative were used for the collection of effluent samples and that may have caused the false positives of the residual chlorine concentrations. Additional influent and

**April 2002**

**Monthly NPDES Discharge Monitoring Report**

**Order No. 96-41, NPDES Permit No. CAG919002**

Tosco/76 Service Station No. 5965

Page 2

effluent samples are being collected to confirm that there has not been any discharge of residual chlorine from the groundwater treatment system at the site.

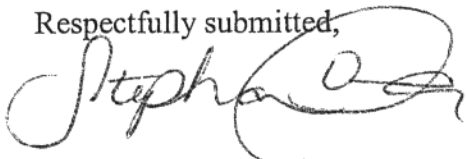
Laboratory report of toxicity test indicates that the effluent sample failed the chronic toxicity test. Upon receiving the laboratory analytical results, Mr. Steve Defibaugh of Block Environmental notified the RWQCB of the failed toxicity test. On May 17, 2002, discharge of treated groundwater was ceased. A Baker tank was installed at the site to temporarily contain treated groundwater for off-site disposal until compliance of discharge requirements is established.

The analytical results are summarized in Table 1 and the laboratory analytical reports with chain of custodies are included in Appendix A.

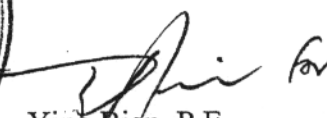
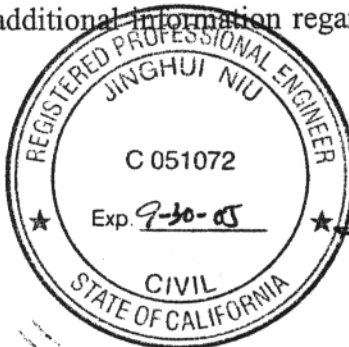
"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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Respectfully submitted,



Stephanie O'Connor  
Project Coordinator



Ying Bian, P.E.  
Senior Engineer

Attachments: Table 1: Discharge Monitoring Analytical Results  
Laboratory Analytical Reports

cc: Steve Defibaugh - Block Environmental  
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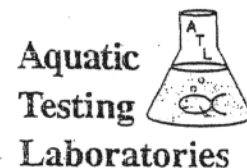
**Table 1**  
**Dewatering/P&T Remediation System**  
**Discharge Monitoring Analytical Data**  
**76 Station No. 5965**  
**NPDES Permit No. CAG919002**  
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Date	Sample ID	Total flow gallons	Average Flowrate gpd	TPHg (µg/L)	Benzene (µg/L)	Toluene (µg/L)	Ethyl-benzene (µg/L)	Xylenes (µg/L)	MTBE (µg/L)	TBA (mg/L)	pH (pH units)	Settable Solids (ml/l/hr)	Suspended Solids (mg/L)	Total Residual Chlorine (mg/L)	Phosphorus (mg/L)	Total Nitrogen (mg/L)
4/1/2002	Influent	49,200	373	8,800	74	1.1	1.6	2.6	46	49	-	-	-	-	-	-
	Effluent A			<50	<0.50	<0.50	<0.50	<1.0	<1.0	<12	-	-	-	-	-	-
	Effluent B			<50	<0.50	<0.50	<0.50	<1.0	<1.0	<12	-	-	-	-	-	-
	Effluent C			<50	<0.50	<0.50	<0.50	<1.0	<1.0	<12	-	-	-	-	-	-
4/15/2002	Influent	54,075	348	8,100	65	0.68	0.95	0.96	88	-	-	-	-	-	-	-
	Effluent A			<50	<0.50	<0.50	<0.50	<1.0	<1.0	-	-	-	-	-	-	-
	Effluent B			<50	<0.50	<0.50	<0.50	<1.0	<1.0	-	-	-	-	-	-	-
	Effluent C			<50	<0.50	<0.50	<0.50	<1.0	<1.0	-	7.7	<0.10	<10	0.90	<0.050	1.3
4/29/2002	Influent	59,807	409	1,600	69	0.83	0.26	1.6	85	-	-	-	-	-	-	-
	Effluent A			51	0.63	1.6	0.32	1.34	<1.0	-	-	-	-	-	-	-
	Effluent B			<50	<0.50	0.18	<0.50	<1.0	<1.0	-	-	-	-	-	-	-
	Effluent C			<50	<0.50	<0.50	<0.50	0.26	<1.0	-	-	-	-	-	-	-
Discharge Limits		-	3,000	100	1.0	5.0	5.0	5.0	-	-	6.5-8.5	0.1	30	0.041	0.2	2.0

**Notes:**

- Effluent A sample collected after first carbon vessel
- Effluent B sample collected after second carbon vessel.
- Effluent C sample collected after third carbon vessel.
- TPHg - total petroleum hydrocarbons as gasoline
- MTBE - methyl tertiary butyl ether
- TBA - tert-butyl alcohol
- Effluent discharge limit for residual chlorine is calculated based on footnote 12 of the permit for intermittent discharge and an estimated discharge duration of 30 minutes per day.

# LABORATORY REPORT



Date: April 24, 2002

Client: Del Mar Analytical  
2852 Alton Ave.  
Irvine, CA 92606  
Attn: Chris Roberts

*"dedicated to providing quality aquatic toxicity testing"*

4350 Transport Street, Unit 107  
Ventura, CA 93003  
(805) 650-0546 FAX (805) 650-0756

CA DOHS ELAP Cert. No.: 1775

Laboratory No.: A-02041502-001  
Sample I.D.: ILD0617-04

Sample Control: The sample was received by ATL with the chain of custody record attached.

Date Sampled: 04/15, 04/17, 04/19/02  
Date Received: 04/15, 04/17, 04/18/02  
Date Tested: 04/16/02 to 04/23/02

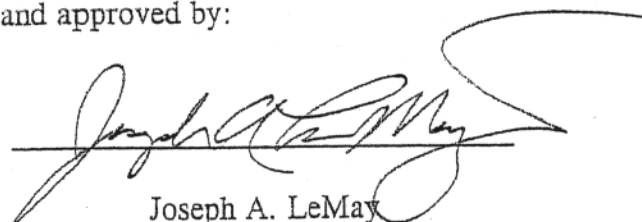
Sample Analysis: The following analyses were performed on your sample:

Fathead Minnow Acute 96hr Percent Survival Bioassay (EPA 600/4-90/027F),  
Fathead Minnow Larval Survival and Growth Test (EPA Method 1000),  
Ceriodaphnia Survival and Reproduction Test (EPA Method 1002),  
Selenastrum Algal Growth Toxicity Test (EPA Method 1003).

## Result Summary:

<b>Acute:</b>	<u>% Survival</u>	<u>TUa</u>
Fathead Minnow:	100%	0.0
<b>Chronic:</b>	<u>NOEC</u>	<u>TUc</u>
Fathead Minnow Survival:	25%	4.0
Fathead Minnow Growth:	12.5%	8.0
Ceriodaphnia Survival:	12.5%	8.0
Ceriodaphnia Reproduction:	6.25%	16.0
Selenastrum Algae Growth:	< 6.25%	> 16.0

Quality Control: Reviewed and approved by:

  
Joseph A. LeMay  
Laboratory Director